

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, MAY 24, 2005
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:11 a.m. The meeting was recessed by Mayor Murphy at 10:56 a.m. to convene the Housing Authority. Mayor Murphy reconvened the regular meeting at 10:58 a.m. with Deputy Mayor Zucchet and Council Member Inzunza not present. Mayor Murphy recessed the meeting at 11:02 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:08 a.m. with Deputy Mayor Zucchet and Council Member Inzunza not present. Mayor Murphy recessed the meeting at 11:18 a.m. into the Budget Review Committee Meeting, and to reconvene the regular meeting at 2:00 p.m.

The regular meeting was reconvened by Mayor Murphy at 2:08 p.m. with all Council Members present. Mayor Murphy recessed the meeting to reconvene the Budget Review Committee Meeting at 2:09 p.m. Mayor Murphy reconvened the meeting at 6:05 p.m. with all Council Members present. Mayor Murphy simultaneously convened the Redevelopment Agency with the regular meeting at 6:06 p.m. Mayor Murphy recessed the meeting at 7:29 p.m. for the purpose of a break. Mayor Murphy reconvened the regular meeting at 7:49 p.m. with Deputy Mayor Zucchet not present. Mayor Murphy recessed the meeting at 7:50 p.m. to reconvene the Housing Authority. Mayor Murphy reconvened the regular meeting at 7:51 p.m. with Deputy Mayor Zucchet not present. Mayor Murphy recessed the meeting at 8:54 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 9:00 p.m. with Deputy Mayor Zucchet not present. The meeting was adjourned by Mayor Murphy at 10:48 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present

(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Maland/Lane (ek/gS)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-not present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-not present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on offering prayer before City Council meetings.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:18 a.m.)

PUBLIC COMMENT-2:

Marie Cruz and Alicia DeLeon-Torres requested that funding for community officers for various organizations not be removed from the City Budget.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

PUBLIC COMMENT-3:

Sandy Summers commented on domestic terrorism.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:22 a.m. – 10:24 a.m.)

PUBLIC COMMENT-4:

Noel Neudeck commented on the possible formation of a Mayor's Office of Disability and the City Budget.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:28 a.m.)

PUBLIC COMMENT-5:

Linda Smith commented on the functions of the Centre City Development Corporation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:31 a.m.)

PUBLIC COMMENT-6:

Jarvis Ross commented on the functions of the Pension Board.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:32 a.m.)

PUBLIC COMMENT-7:

Patricia Nelson-Lawrence commented on homelessness services and homeless people.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:36 a.m.)

PUBLIC COMMENT-8:

Ron Boshun commented on the actions of the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:37 a.m. – 10:39 a.m.)

PUBLIC COMMENT-9:

Brina-Rae Schuchman commented on the arrangement for speaking during Non Agenda Public Comment.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. – 10:41 a.m.)

PUBLIC COMMENT-10:

Richard Agee commented on appointment versus election for District Council Members.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:42 a.m. – 10:43 a.m.)

PUBLIC COMMENT-11:

Joseph Braverman commented on his candidacy for the Office of Mayor.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:46 a.m.)

PUBLIC COMMENT-12:

James Wade commented on budget cuts for libraries in the City.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:49 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Atkins commented on the Access Center in Council District 3, which serves the disabled community, and the damage which occurred there. Miss Atkins thanked the gay community for their support in helping to rebuild the Access Center and the allocation of funds provided. Miss Atkins also mentioned that donations and contributions are welcome from the public.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:50 a.m. – 10:55 a.m.)

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-330: Mitigated Negative Declaration for Various Underground Utility Districts with Mitigation Monitoring and Reporting Program.

(Various Community Plan Areas. Districts 2, 3, 6, 7, and 8.)

(Continued from the meeting of April 18, 2005, Item S403, Subitem B, at the City Manager's request, in order to consolidate the action with the public hearing on 5/24/2005).

CITY MANAGER'S RECOMMENDATION:

The public hearing to consider whether to create the Underground Utility Districts was tentatively scheduled for 5/24/2005. The public hearing has since been moved to 6/21/2005 to allow additional time to notify affected property owners. The City Manager requests this item be continued to 6/21/2005 to consolidate this action with the public hearing on whether to create the Underground Utility Districts.

Unless continued, this action adopts the following resolution:

(R-2005-1041 Cor. Copy) CONTINUED TO TUESDAY, JUNE 21, 2005

Certifying that Mitigated Negative Declaration Project No. 63220, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the following underground utility districts:

- District 2 Block 2-J, as described in Exhibit A, to this resolution and more particularly shown on Drawing No. 33492-1-D, and;
- District 3 Block 3-EE, as described in Exhibit B, to this resolution and more particularly shown on Drawing No. 33493-1-D and;
- District 7 Block 7-CC, as described in Exhibit C, to this resolution and more particularly shown on Drawing No. 33496-1-D, and;
- District 8 Block 8-G, as described in Exhibit D, to this resolution and more particularly shown on Drawing 33497-1-D and;
- Hotel Circle North from Circle South to Hotel Circle Place, as described in Exhibit E, to this resolution and more particularly shown on Drawing No. 33555-1-D.

That pursuant to California Public Resource Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference.

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding this project.

CITY MANAGER SUPPORTING INFORMATION:

This action is to approve the Mitigated Negative Declaration for various Underground Utility Districts with a Mitigation Monitoring and Reporting Program. The proposed districts are identified in CIP-37-028.0, "Annual Allocation – Underground of City Utilities," and will underground the overhead utility facilities within the designated districts. The public hearing to consider whether to create these districts is scheduled for 6/21/2005.

The formation of these districts will require the removal and/or underground conversion of certain overhead power and communications wires with poles within the established boundary. The expense of the underground installation and removal of overhead electric facilities within the right-of-way will be financed through City of San Diego Undergrounding Surcharge Fund 30100, contingent upon receipt of funds from San Diego Gas & Electric. The expense of the underground installation and removal of overhead facilities within the right-of-way for all other utilities will be the responsibility of the utility companies in accordance with California Public Utilities Commission Rules.

It is the responsibility of the individual property owner(s), for the trenching and other related work to convert their property to receive electrical, telecommunication and cable television from an underground service. However, San Diego Gas & Electric will offer to property owner(s), within the Underground Utility District, to perform all the work necessary to convert private property, including necessary conduits for telephone and cable facilities at no cost to the property owner(s). In order to take advantage of San Diego Gas & Electric's offer to perform this work, property owners are required to sign a Permit to Enter Form (PTE). The City will also provide and plant a new trees for any property owner(s) who are willing to take responsibility for the watering and caring of the tree until it becomes established.

FISCAL IMPACT:

None with this action alone. The impact associated with creation of the Underground Utility Districts, like the construction cost and other indirect costs such as administration, archaeological monitoring, street light replacement, street improvement, minor City forces, and other related work, is estimated at \$16,181,792. Funds will be available in Fund 30100, Undergrounding Surcharge Fund, contingent upon receipt of funds from San Diego Gas & Electric.

Mendes/Boekamp/AO

Staff: Nathan Bruner – (619) 533-3777.

FILE LOCATION: STRT-K-307 (38)-Various Underground Utility Districts
with Mitigation Monitoring and Reporting Program

COUNCIL ACTION: (Time duration: 10:12 a.m. – 10:12 a.m.)

MOTION BY MADAFFER TO CONTINUE TO JUNE 21, 2005 AT THE REQUEST OF THE CITY MANAGER IN ORDER FOR THIS ITEM TO COINCIDE WITH THE PUBLIC HEARING. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-331: Grant Application to U.S. Department of Housing and Urban Development (HUD) for Lead Hazard Reduction Demonstration Grant Program.

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1174) ADOPTED AS RESOLUTION R-300474

Authorizing the President and Chief Executive Officer of the San Diego Housing Commission to: (1) apply to HUD for the new grant funding; and, if awarded, (2) execute contracts with HUD to accept the funds; (3) execute contracts with participating non-profit agencies and city departments to implement the program; and (4) amend the FY06 Housing Commission Budget to accept the funds.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:58 a.m. – 10:58 a.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-332: Skyline Hills Townhomes.

Matter of approving, conditionally approving, modifying or denying the construction of a 66-unit, residential condominium development, consisting of 22 triplex buildings and associated site improvements. The project requires the following approvals:

A Progress Guide and General Plan/Skyline-Paradise Hills Community Plan Amendment to redesignate the site from single-family use to multi-family use; A Rezone from RS-1-7 (single-family zone) to RM-1-1 (multi-family zone); An Easement Vacation to vacate a drainage easement; A Tentative Map to allow for the condominium development; A Planned Development Permit for a deviation to building height; and, A Site Development Permit for potential impacts to environmentally sensitive lands.

The 5.2-acre, vacant site is located on the east side of Meadowbrook Drive, north of Paradise Valley Road.

(MND/PG&GP-CPA No. 198836/RZ No. 011305/Drainage Easement Vacation No. 194762/TM No. 011309/PDP No. 011303/SDP No. 206466/Project No. 6777. Skyline-Paradise Hills Community Plan Area. District 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolutions in subitems A, B, and D; adopt the resolution in subitem E to grant the permit; and introduce the ordinance in subitem C:

Subitem-A: (R-2005-1179) ADOPTED AS RESOLUTION R-300475

Adoption of a Resolution certifying that Mitigated Negative Declaration Project No. 6777 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a community plan amendment, planned development permit, site development permit, rezone, tentative map and easement abandonment for the Skyline Hills Townhomes project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration is approved;

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2005-1180) ADOPTED AS RESOLUTION R-300476

Adoption of a Resolution amending the Skyline-Paradise Hills Community Plan;

Amending the Progress Guide and General Plan for the City of San Diego to incorporate the above amended plan.

**Subitem-C: (O-2005-132) INTRODUCED, TO BE ADOPTED ON
MONDAY, JUNE 6, 2005**

Introduction of an Ordinance of the Council of the City of San Diego changing a 5.2-acre site, located on the east side of Meadowbrook Drive, north of Paradise Valley Road, in the Skyline-Paradise Hills Community Plan Area, in the City of San Diego, California, from the RS-1-7 Zone into the RM-1-1 Zone, as defined by San Diego Municipal Code Section 131.0406, and repealing Ordinance No. O-11731 (New Series), adopted December 10, 1975, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-D: (R-2005-1181) ADOPTED AS RESOLUTION R-300477

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, with respect to Tentative Map No. 011309;

That pursuant to Government Code section 66445(j) a portion of the public utility easement located within the project boundaries as shown in Tentative Map No. 011309, shall be vacated, contingent upon the recordation of the approved final map for the project;

That the recommendation of the Planning Commission is sustained, and Tentative Map No. 011309 is granted to Meadowbrook Homes, LLC, Applicant/Subdivider and Lundstrom and Associates, Engineer, subject to the attached conditions, which are made a part of this resolution.

Subitem-E: (R-2005-) ADOPTED AS RESOLUTION R-300478,
GRANTED PERMIT

Adoption of a Resolution granting or denying Planned Development Permit No. 011303 and Site Development Permit No. 206466, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on April 7, 2005, voted 4-0-3 to recommend approval of the project on the consent agenda; no opposition.

Ayes: Schultz, Chase, Griswold, Ontai
Recusing: Garcia, Otsuji, Steele

The Skyline-Paradise Hills Planning Committee, on January 11, 2005, recommended unanimous approval of the project by a vote of 12-0-0 with no conditions.

CITY MANAGER SUPPORTING INFORMATION:

The Skyline Hills Community Project is a Progress Guide and General Plan/Skyline-Paradise Hills Community Plan No. 198836, Rezone No. 011305, Tentative Map No. 011309, Drainage Easement Vacation No. 194762, Planned Development Permit No. 011303 and Site Development Permit No. 206466 to allow the construction of a 66-unit, condominium development within 22 triplex buildings on a vacant 5.2-acre site located on the east side of Meadowbrook Drive, just north of Paradise Valley Road.

FISCAL IMPACT:

All staff costs associated with the processing of this project are recovered from a separate deposit provided and maintained by the applicant.

Frazier/Halbert/SMT

LEGAL DESCRIPTION:

The proposed project site lies within the Skyline-Paradise Hills Community Plan area, and Council District 4. A rezone from RS-1-7 to RM-1-1 is also proposed. Legal Description: Lot 32 of Highland Bluffs Map No. 8673.

Staff: Sandra Teasley – (619) 446-5271.

FILE LOCATION: LUP-Skyline Hills Townhomes, 05/24/05 (65)

COUNCIL ACTION: (Time duration: 10:59 a.m. – 10:59 a.m.)

MOTION BY YOUNG TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, AND D; ADOPT THE RESOLUTION IN SUBITEM E TO GRANT THE PERMIT; AND INTRODUCE THE ORDINANCE IN SUBITEM C. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-333: Upas and Brant Street: Public Right-of-Way Vacation.

The Council of The City of San Diego, California, will conduct a public hearing, as part of a scheduled City Council meeting, on the following project: Proposed Public Right-of-Way Vacation for an unimproved portion of Upas Street between Brant Street and Curlew Street in the RS-1-7 and RS-1-1 Zones.

(Uptown Community Plan Area. District 3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

Subitem-A: (R-2005-1134) ADOPTED AS RESOLUTION R-300479

Adoption of a Resolution vacating the portion of the Upas Street right-of-way between Brant Street and Curlew Street, as described in the legal description marked as Exhibit "A," and as more particularly shown in Drawing No. 20099-B, labeled Exhibit "B," on file in the office of the City Clerk;

That the City Clerk shall cause a certified copy of this resolution, along with Exhibits "A" and "B," attested by him under seal, to be recorded in the office of the County Recorder.

CITY MANAGER SUPPORTING INFORMATION:

The project proposes the vacation of the unimproved Upas Street right-of-way between Brant Street and Curlew Street within the Uptown Community Plan area. The portion of the right-of-way proposed to be vacated is an unimproved "paper" street. The right-of-way vacation is requested by the adjacent property owners primarily to gain ownership, and therefore access to the area which would allow for the clearing of brush and general maintenance of the property. There is no intent to develop the vacated portion of the street and as part of this requested action, both property owners have agreed to place a non-building easement over the entire vacated right-of-way area. However, if approved, the vacated portion of the right-of-way would increase the lot size and therefore, the development potential of the adjacent properties by increasing the allowable gross floor area.

The unimproved right-of-way connecting Brant Street to the east with Curlew Street to the west is on a heavily vegetated natural slope. The grade of the slope on the westerly portion of the right-of-way is generally greater than 25%, which qualifies as steep hillside pursuant to the definition in the Land Development Code and as such, is considered an environmentally sensitive resource.

The vegetation on the slope is predominately non-native material including mature eucalyptus trees, succulents and ornamental groundcover. Due to the non-building easement, no building or grading would occur within the vacated right-of-way and existing landscape materials would remain. Brush management and selective clearing is the intended action. The development Services Department has provided a recommendation supporting the proposed vacation based on the fact that the right-of-way is not being used for the intended purpose of a street, which the California Vehicle Code (590) defines as "a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel." Additionally, staff has determined that the Upas Street right-of-way between Brant Street and Curlew Street is

no longer required and unnecessary for present or prospective public use. Therefore, improvements to this section of the street including the necessary grading and paving are unlikely to occur in the future. Lastly, staff has determined that the proposed vacation qualifies as a “summary” vacation and does not require a recommendation from the Planning Commission.

The proposed vacation of the Upas Street Right-of-Way meets all of the criteria that would allow a decision maker to affirm all of the required findings. That is, the portion of the Street proposed to be vacated does not provide access to any of the abutting properties and the steep grade of the hillside makes it unlikely that the street would be improved in the future to a degree that would facilitate vehicular access. The general public would benefit from the vacation because the area to be vacated would remain as undeveloped natural space and the adjacent owner would assume the responsibility for the general maintenance and upkeep as well as any liability associated with the property. The abutting property owners would benefit from the closure by regaining the vacated portion of the right-of-way and increasing the size and value of their properties. The proposed vacation would not adversely effect the Uptown Community Plan and would be consistent with the Land Development Code. The proposed vacation would not affect existing access to properties along Brant Street or Curlew and would not affect traffic circulation in the area.

On November 4, 2003, the Uptown Planners voted to deny the street vacation with a vote of 11-5-0. No specific issues were identified regarding the recommendation to deny the street vacation. The minutes from the November 2003 meeting are attached to the Recommendation Sheet within this package.

Halbert/Frazier/PH

Staff: Patrick Hooper - (619) 557-7992.

FILE LOCATION: STRT-J-2973 (39)

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:01 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-334: Del Cerro Heights Upper Gate.

Matter of the appeal by Lisa Worley and Del Cerro Heights HOA regarding the Planning Commission's denial of a request by the Del Cerro Heights Homeowner's Association for Planned Development Permit No. 9812, Amending Planned Residential Development Permit No. 15, to allow controlled access/egress of an existing "emergency access only" gate by residents. Said gate is located adjacent to Pasatiempo Avenue.

(See City Manager Report CMR-05-114. Navajo Community Plan Area. District 7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolution in subitem A to grant the appeal and overturn the decision of the Planning Commission and to grant the permit; and adopt the resolution in subitem B:

Subitem-A: (R-2005-) CONTINUED TO TUESDAY, SEPTEMBER 13, 2005

Adoption of a Resolution granting or denying the appeal, and upholding or overturning the decision of the Planning Commission and granting or denying Planned Development Permit No. 9812, with appropriate findings to support Council action.

Subitem-B: (R-2005-) CONTINUED TO TUESDAY, SEPTEMBER 13, 2005

Adoption of a resolution certifying that Mitigated Negative Declaration Number No. 5937, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 *et seq.*) as amended, and the State guidelines thereto (California Administration Code Section 15000 *et seq.*), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City Council;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and approving the Mitigated Negative Declaration;

That pursuant to California Public Resources Code, Section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment.

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Planning Commission on February 3, 2005, voted 5-0 to deny; was opposition.

Ayes: Steele, Garcia, Chase, Schultz, Otsuji
Not present: Ontai

The Navajo Community Planning Group has recommended approval of this project.

CITY MANAGER SUPPORTING INFORMATION:

The Del Cerro Heights Upper Gate PDP, Amending PRD No. 15, proposes to permit the modification of an existing gated entry for controlled access by residents. The development is located south of Camino Rico, west of Pasatiempo Avenue and east of Bernadette Lane, within the Navajo Community Plan Area.

In 1971, the City Council approved PRD No. 15, which allowed development of 230 dwelling units in the RS-1-7 and Hillside Review Overlay Zones. This development was approved with two access points, which include a main entry gate, "Lower Gate", at Camino Rico, and a second gated access, "Upper Gate", at Rancho Park Drive west of Pasatiempo Avenue. Due to neighborhood concerns regarding traffic impacts on existing streets, the Upper Gate was restricted for use to emergency vehicles only.

In 1976, the City Council denied a request to allow use of the Upper Gate by residents, finding that no material change in circumstances had occurred since approval of the original permit, and that the opening of the Upper Gate would create more traffic on neighboring streets. In 1978 and 1979, amendments to PRD 15 allowed revisions in housing products types and resulted in a reduction of the total number of dwelling units from 230 to 179. These 179 units are existing.

In 1987, the Del Cerro Heights HOA filed an application to Amend PRD 15 to allow modification of the Upper Gate to allow general ingress and egress by residents of the development. The Planning Director's decision to deny the request was appealed to the Planning Commission. The Planning Commission denied the appeal of the Planning Director's decision, and the Upper Gate was required to remain available for emergency use only.

The Planning Commission's decision was appealed to the City Council, which determined that there was no material change in circumstance, and affirmed the Planning Commission's decision to deny the appeal. The Upper Gate has remained restricted to emergency use only.

In 2003, the Del Cerro Heights HOA filed the current application for a PDP, again requesting that controlled access of the Upper Gate be permitted for residents. Guests and delivery vehicles would be restricted to using the Lower Gate located at the main entrance. The Applicant's request indicates that since the PRD was approved, there have been changes in circumstances which warrant modification of the Upper Gate to allow controlled access. A copy of this information is included as Attachment 10.

On February 3, 2005, the Planning Commission voted 5-0 to deny the application for amendment. The Commissioners concluded that the property owner currently has the ability to install an emergency access gate providing ingress and egress, which would serve their needs as required by the existing PRD. Copies of the resolution of denial and the approved meeting minutes are included as Attachment 15 and 16 respectively.

On February 3, 2005, an adjacent property owner filed an appeal indicating that a gate associated with an 18-foot wide access easement leading to an existing City Reservoir has been locked. The easement is off-site to the PRD 15 boundary. This access easement has been improved with an asphalt roadway and leads from the terminus of Rockhurst Court public right-of-way (cul-de-sac), upward to an existing reservoir. This roadway is adjacent to an existing cul-de-sac within the Del Cerro Heights development (Caminito de la Taza) and is unrelated to the access issue from the Upper Gate. A copy of this appeal is included as Attachment 17.

On February 16, 2005, the Del Cerro Heights HOA filed a separate appeal indicating that the findings to deny the request were not supported. A copy of this appeal is included as Attachment 17.

FISCAL IMPACT:

None with this action. All staff costs associated with processing this project are recovered from a separate deposit account provided and maintained by the Applicant.

Halbert/Frazier/WCT

LEGAL DESCRIPTION:

The 52-acre site is generally located west of Pasatiempo Avenue, between Rockhurst Court and Camino Rico, easterly of College Avenue, in the RS-1-7 (Single-Family Residential) Zone of the Navajo Community Plan Area. The project site is legally described as Del Cerro Heights, Units 1-4, Map Nos. 7586, 7923, 7924, and 7925.

Staff: Bill Tripp (619) 446-5273.

FILE LOCATION: LUP-Del Cerro Heights Upper Gate, 05/24/05 (65)

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:14 a.m.)

MOTION BY MADAFFER TO CONTINUE TO SEPTEMBER 13, 2005 AT THE REQUEST OF MATTHEW PETERSON, ESQ. OF PETERSON & PRICE, ON BEHALF OF THE DEL CERRO HEIGHTS HOMEOWNERS ASSOCIATION, FOR FURTHER REVIEW. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-ineligible.

ITEM-S500: Convention Center Management Agreement.

(See City Manager Report CMR-05-081. Centre City Community Area.
District 2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1202) ADOPTED AS RESOLUTION R-300480

Authorizing the City Manager to execute a Third Amended and Restated Agreement between the City of San Diego and San Diego Convention Center, Inc., for the operation and maintenance of the Center, under the terms and conditions as set forth in the agreement.

CITY MANAGER SUPPORTING INFORMATION:

San Diego Convention Center Corporation (SDCCC) was created by the City in 1984 to manage, operate, and promote the Convention Center. SDCCC and the City are parties to a Management Agreement that defines the relationship and the respective responsibilities. The Management Agreement also incorporates pertinent provisions related to the operation of the Convention Center that appear in the agreement between the City and the San Diego Unified Port District.

The Management Agreement was amended in 1993 when SDCCC assumed responsibility for the management and operation of the Concourse, Civic Theatre, and Plaza (collectively known as the "CPAC" facilities). The agreement was further amended in 1998 upon expansion of the Convention Center.

The transfer back to the City of the responsibility for management and operation of CPAC necessitates the deletion of certain provisions in the Management Agreement. SDCCC has proposed that an amendment to the Management Agreement incorporate other modifications. On April 6, the Committee on Rules, Finance, and Intergovernmental Relations (Committee) voted 4-0 to approve the City Manager's recommendations contained in City Manager's Report No. 05-081 except the proposed amendment to SDCCC's Bylaws (SDCCC will return to Council at a later date after further work on this proposal). The proposed Third Amended and Restated Management Agreement incorporates the City Manager's recommendations approved by the Committee.

FISCAL IMPACT:

1. SDCCC will no longer request an operational subsidy from the City. Instead, on a yearly basis, SDCCC will prepare its own budget and request City funding for specific capital needs and promotional programs only. Whereas the City had been basing its funding on an analysis conducted by consulting firm Public Financial Management (PFM), instead SDCCC will now submit its capital and promotional programs needs request five years in advance so that the City can plan its funding appropriately.
2. An annual allocation of City funds, if any, will be approved by the City Council, in its sole and complete discretion, as part of the normal budget process each year.
3. The revised FY06 request from SDCCC is \$4,339,198 as compared to \$6.8 million projected in the base case scenario of the PFM report.
4. SDCCC will have the ability to incur debt, which will enable it to finance needed capital improvement over time.

Herring/Griffith/GJ

Staff: Gary Jones – (619) 236-6264
Carrie L. Gleeson – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:08 a.m. – 11:17 a.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S501: First Amendment to NTC Park Improvement Agreement.

(See Redevelopment Agency Report RA-05-16/CMR-05-108. Peninsula Community Area. District 2.)

(Continued from the meeting of 5/17/2005, Item S500, at the request of Councilmember Zucchet, due to lack of time.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1146) ADOPTED AS RESOLUTION R-300481

Approving the First Amendment to the NTC Park Improvement Agreement;

Authorizing the City Manager and/or his designee to execute the First Amendment to the NTC Park Improvement Agreement among the Redevelopment Agency (Agency), the City of San Diego (City) and McMillin-NTC, LLC the (Master Developer), which in on file in the office of the secretary to the Agency.

Staff: Maureen Ostrye – (619) 533-5428
Donald F. Shanahan – Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of 5/24/2005, for a companion.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:05 p.m. – 7:28 p.m.)

MOTION BY ZUCCHET TO ADOPT ITEMS S501 AND S502. Second by Atkins.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea,
Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S502: Community Facilities District No. 3 Liberty Station Issuance of Special Tax
Bonds Series A.

(See City Manager Report No. CMR-05-112. Peninsula Community Planning
Area. District 2.)

(Continued from the meeting of 5/17/2005, Item 332, at the request of
Councilmember Zucchet, due to lack of time.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1150) ADOPTED AS RESOLUTION R-300482

Declaring the City of San Diego acting as the legislative body of Community
Facilities District No. 3 (Liberty Station) authorizing the Issuance of its Special
Tax Bonds Series A of 2005 in a principal amount not to exceed \$16,000,000 and
approving certain documents and taking certain other actions in connection
therewith.

Staff: Elizabeth Kelly – (619) 236-6932
Mark D. Blake – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:05 p.m. – 7:28 p.m.)

MOTION BY ZUCCHET TO ADOPT ITEMS S501 AND S502. Second by Atkins.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea,
Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S503: Southgate Condominium Conversion.

Matter of the appeals by Dora E. Sanchez, Arlen L. Shire, and Dr. Valerie Shields from the decision of the Planning Commission in approving an application for Tentative Map No. 106415 to convert 188 apartments to condominiums on a 12.9 acre site at 850 Beyer Way in the RM-1-1 Zone south of Palm Avenue, west of Picador Boulevard, and north of Coronado Avenue.

Should the condominium conversion be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the city and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(See City Manager Report CMR-05-106. TM No. 106415/Project No. 32312. Otay Mesa-Nestor Community Plan Area. District 8.)

(Continued from the meeting of May 17, 2005, at the request of Councilmember Inzunza, due to lack of time.)

NOTE: Hearing open. No testimony taken on May 17, 2005.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution to deny the appeal and uphold the decision of the Planning Commission and to grant the map:

(R-2005-) DENIED APPEAL AND GRANTED MAP, ADOPTED
AS RESOLUTION R-300483

Adoption of a Resolution granting or denying the appeal and upholding or overturning the decision of the Planning Commission in granting the project and granting or denying Tentative Map No. 106415, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on February 3, 2005, voted 4 – 1 to approve staff's recommendations as outlined in Report to the Planning Commission No. PC-04-154, along with staff's memorandum dated February 3, 2005; was opposition.

Ayes: Garcia, Steele, Schultz, Otsuji

Nays: Chase

Not Present: Ontai

Chairperson: vacant

The Otay Mesa-Nestor Community Planning Board on July 14, 2004, voted 8-6-0 to recommend approval of the project with no conditions.

CITY MANAGER SUPPORTING INFORMATION:

This item is an appeal of the Planning Commission's February 3, 2005, decision to approve the Southgate Condominium Conversion, a Tentative Map to convert 188 existing apartment units to condominium units. This item was originally heard by the Planning Commission on September 30, 2004 continued to December 9, 2004 and continued again to the February 3, 2005 public hearing. During public testimony, numerous citizens spoke in opposition to the project citing issues including the lack and loss of affordable rental units in the area; that the conversion could potentially create a decrease in the number of students at a nearby school; that condominium conversions in general were impacting the housing stock in the City of San Diego; and, concerns about the distribution and clarity of the required public notices. In addition, public testimony raised concerns related to how condominium conversions throughout the City of San Diego are potentially impacting the Residential Element of the Progress Guide and General Plan. The Planning Commission approved the item 4-1-0 with no additional conditions. Subsequent to the February 3, 2005 hearing, two appeals were filed against the project.

Project Description

The site is currently developed with 188 residential units (94 one-bedrooms, 93 two-bedrooms and one three bedroom) located in twelve (12) detached buildings. The development was designed and constructed for condominium or for sale units in 1978 in conformance with required codes at the time.

The 12.9-acre site is located at 850 Beyer Way in the RM-1-1 zone within the Otay Mesa-Nestor Community Planning area. The surrounding area is developed with a variety of mixed uses including single-family dwellings to the west and south, commercial uses to the north, mixed commercial establishments, multi-family units and the Howard Pence Elementary School to the east. The Otay Mesa-Nestor Community Plan land use designation for the site is residential. There is an existing pool and green belt area within the perimeter and between the twelve structures. The owner plans to convert the apartments to condominiums in six phases over a period of 24 months in order to minimize tenant displacement. In addition, the units will be upgraded to include the following improvements: stacked, interior washer/dryer hook-ups, new kitchens and bathrooms, natural maple wood cabinetry, new kitchen appliances, plumbing fixtures, lighting fixtures, heating, flooring and carpet. The acoustical ceilings will be removed and each unit will be painted. The exterior trim will also be painted and the landscaping upgraded.

FISCAL IMPACT:

All costs associated with the processing of this application are paid for by a deposit account maintained by the applicant.

Frazier/Halbert/WJZ

LEGAL DESCRIPTION:

The project site is located westerly of Beyer Way and southerly of Coronado Avenue at 850-940 Beyer Way, and described as lot 255 of Pacifica Hills, Unit No. 6, Map No. 7008, in the RM-1-1 zone.

NOTE: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, 15301(k), Existing Facilities.

Staff: William Zounes – (619) 687-5942.

FILE LOCATION: LUP-Southgate Condominium Conversion 5/24/05 (65)

COUNCIL ACTION: (Time duration: 9:00 p.m. – 10:22 p.m.)

Testimony in opposition by Mike Pazder, Richard Helwig, Rosalie Leon, Mario Lopez, John Mears, Catherine Rodman, Valerie Shields, and Arlen Shire.

Testimony in favor by Matt Peterson.

COUNCIL ACTION: (Time duration: 6:05 p.m. – 6:05 p.m.)

MOTION BY INZUNZA TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. Second by Atkins. Passed by the following vote: Peters-nay, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

ITEM-S505: Amending the San Diego Municipal Code By Adding Division 41 Relating to Wages and Health Benefits.

(See City Manager Report CMR-05-090; City Attorney Report dated 4/19/2004; memorandum from Mayor Murphy dated 3/16/2005; memorandum from Deputy Mayor Zucchet, Councilmembers Atkins, Young, and Frye dated 3/15/2005; memorandum from Councilmember Atkins dated 4/8/2005; memorandum from the San Diego Convention Center Corporation dated 4/6/2005; and News Release from the San Diego Convention Center Corporation dated 3/25/2005.)

TODAY'S ACTIONS IS:

Reintroduce the following ordinance which was introduced on 4/12/2005, Item 330, Subitem A. (Council voted 5 to 4. Councilmembers Peters, Maienschein, Madaffer, and Mayor Murphy voted nay):

(O-2005-9 Rev.) REINTRODUCED, TO BE ADOPTED ON TUESDAY,
JUNE 7, 2005

Amending Chapter 2, Article 2 of the San Diego Municipal Code by adding Division 41, relating to wages and health benefits for certain categories of persons employed by businesses that contract with the City, receive financial assistance from the City, or work at certain sports, entertainment, or convention facilities in the City of San Diego. In particular, this Ordinance provides that employers covered by Division 41 shall pay covered employees a wage of no less than \$10.00 per hour if the health benefits rate is paid, or no less than \$12.00 per hour if the health benefits rate is not paid; and provide certain compensated and uncompensated time off for sick leave, vacation, or personal necessity leave. This Ordinance also provides reporting and notification requirements and enforcement provisions.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:05 p.m. – 6:05 p.m.)

MOTION BY INZUNZA TO REINTRODUCE. Second by Atkins. Passed by the following vote: Peters-nay, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

ITEM-S506: Calling the Special Municipal Election for July 26, 2005, as an All Mail Ballot Election.

(See City Clerk Report No. 05-04.)

CITY CLERK'S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-2005-140) FILED

Introduction and adoption of an Ordinance establishing that the Special Municipal Election to be held on July 26, 2005, for the purpose of filling the mayoral vacancy and submitting to the qualified voters of the City one ballot proposition shall be conducted by mail.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 7:50 p.m. – 8:54 p.m.)

MOTION BY MADAFFER TO NOT INTRODUCE AND ADOPT THE ORDINANCE, AND TO DIRECT THAT THE CITY CLERK PROVIDE A REPORT WITHIN 180 DAYS FOR FUTURE ELECTIONS. Second by Inzunza. Passed by the following vote: Peters-nay, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S507: Waiver of Attorney-Client Privilege and Work-Product Doctrine with Respect to a Report From Luce, Forward, Hamilton & Scripps Concerning Pension Benefits.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1194) ADOPTED AS RESOLUTION R-300484

Declaring that the protections of the Attorney-Client Privilege and the Work Product Doctrine are waived as to the report prepared for the City by the law firm Luce, Forward, Hamilton & Scripps relating to certain pension benefits for the purpose of providing such documents to the San Diego County District Attorney.

SUPPORTING INFORMATION:

From time to time the City Council has waived the Attorney-Client privilege and the protection of the Attorney Work-Product Doctrine with respect to certain materials in order to respond to subpoenas or requests for documents from agencies investigating the financial affairs of the City. These agencies have in the past included the Securities and Exchange Commission and the U.S. Attorney's Office. Recently, the San Diego County District Attorney announced that her Office was conducting an investigation into these matters. The District Attorney's Office has requested the production of a report prepared for the City by the law firm Luce, Forward, Hamilton & Scripps relating to certain pension benefits. The report is otherwise subject to the Attorney-Client privilege and the protection of the Attorney Work-Product Doctrine, and could not be released to a third-party entity such as the District Attorney's Office without the City Council waiving those protections. Consistent with the treatment of similar requests in this matter, the City Attorney is recommending that the City Council waive the applicable privileges so that the information may be provided to the District Attorney.

Aguirre

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:22 p.m. – 10:23 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 10:48 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:48 p.m.)